RAJYA SABHA

Tuesday, the 5th December, 2006/14 Agrahayana, 1928 (Saka)

The House met at eleven of the clock,

MR. CHAIRMAN in the Chair.

ORAL ANSWERS TO QUESTIONS

श्री सभापति: आज तो मन से welcome किया है ना?

श्री मुख्तार अब्बास नकवी: सभापति महोदय, केरल में ...(व्यवधान)...

MR. CHAIRMAN: Nothing will go on record ...(*Interruptions*).

श्री मुख्तार अब्बास नकवी:*

MR. CHAIRMAN: Nothing will go on record ...(*Interruptions*). Question No. 181...(*Interruptions*).

Harassment of tax payers

*181. SHRI PRAVEEN RASHTRAPAL: Will the Minister of FINANCE be pleased to state:

(a) whether the Central Board of Direct Taxes (CBDT) has recently spelt out measures to deal with taxpayers' grievances in the event of their Income Tax Return statements being taken up for scrutiny by the Income Tax Department;

(b) if so, the details thereof;

(c) whether it is a fact that genuine tax payers are being harassed by the I.T. Department by issuing these notices from time-to-time; and

(d) if so, what steps are being taken by the I.T. Department to ensure that genuine tax payers are not harassed by the income tax authorities?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): (a) to (d) A Statement is laid on the Table of the House.

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*Not recorded.

Statement

(a) Yes, Sir. The Central Board of Direct Taxes has recently issued instructions to the authorities in the Income-tax Department with reference to selection of cases for scrutiny on basis of information received through Annual Information Return (AIR).

(b) Certain categories of Returns of Income are to be picked up for scrutiny through a Computer Assisted Scrutiny System (CASS) so as to eliminate human intervention in the selection of such cases for scrutiny. The relevant instructions lay down in details the steps to be taken to monitor and regulate the selection of cases picked up for scrutiny on the basis of information received through Annual Information Returns, as well as for the consequential assessment proceedings. The purpose of these instructions is to eliminate the scope of any undue hardship or harassment.

(c) and (d) Less than 2% cases of all returns of income furnished every year are selected for scrutiny, which is a statutory process. The selection of cases for scrutiny are based on strict guidelines, and with adequate safeguards to ensure that there are no cases of improper issue of notices for scrutiny. These guidelines minimize discretion-based selection of cases for scrutiny. CASS is employed for selection of cases on the basis of information received through returns of income as well as institutional processes such as AIR. Regular monitoring is done to ensure proper selection. Lists of the cases so picked up are displayed publicly in the Income-tax offices so as to ensure transparency. Chief Commissioners and Commissioners of Income-tax have been instructed to meet assessees and to hear their grievances, if any, in this regard. Special grievance cells in CBDT and the field offices have been created to assist the assessees for the resolution of their grievances.

SHRI PRAVEEN RASHTRAPAL: Sir, in good olden days, the Income Tax Department was known for scrutiny of cases by the officers who were authorised under the Income Tax Act. If I am not incorrect, Income Tax is governed under the IT Act, 1961, which was passed by this Parliament. And, according to my information, assessment of Income Tax is required to be made by the authorities which are authorised under the Act. In good olden days, it was Group 'A' and Group 'B' Income Tax Officers who were authorised to make assessment. Subsequently, the Department added Assistant Commissioners of Income Tax and also Deputy Commissioners

of Income Tax. I have information that against the provisions of the Act, Joint Commissioners of Income Tax and Additional Commissioners of Income Tax are also making assessment which is challenged in the court of law. I would like to know, through you, Sir, from the hon. Minister as to why the Income Tax Department is going beyond the provisions of Sections 2 of the IT Act for authorising the Officers to make assessment which is not legal.

SHRI P. CHIDAMBARAM: Sir, the hon. Member should kindly look at the question. This question does not deal with any case which is pending in the court where Income Tax Department has allegedly authorised any officer other than an officer prescribed in Section 2. If the matter is in dispute in a court whether a particular officer or a particular class of officers should be authorised or not, that question must be decided by the court. According to us, only authorised officers under the Income Tax Act are making assessments of the returns.

SHRI PRAVEEN RASHTRAPAL: Similarly, as far as the procedure of the assessment is concerned, you have not referred completely to what is the correct procedure. Sometimes, you are depending on the machine, that is, computer, to decide whether a particular return should be selected for scrutiny or not. And, that is on the basis of all-India information. But, if the all-India information report and the details given in the Income Tax returns are tallying, then, where is the necessity of scrutiny of said return? I would like to know the number of cases selected on the basis of computer for assessment during the current financial year.

SHRI P. CHIDAMBARAM: Sir, in the current year, under the CASS system, that is, Computer Assisted Selection for Scrutiny, we have selected 1,51,876 cases for scrutiny.

DR. K. MALAISAMY: Sir, we are able to see from the statement of the hon. Minister how scrutiny has been made based on the Income Tax return filed. I am inclined to ask the hon. Minister whether in the case of proven, leading Income Tax assessee for decades and decades, for certain reasons, inadvertently, (as the Minister himself is a leading lawyer, he knows what is meant by *mens rea*) without having any *mens rea,* under some circumstances, inadvertently, the assessee fails to file returns, In such a case, have they (Dept.) taken a stand to harass or they do it objectively? They say that they would go by guidelines; they would go by

this and that, Is there any case of wanton, harassment made in any such cases?

SHRI P. CHIDAMBARAM: Sir, I do not know whether the hon. Member has any particular case in mind. I have no such case before me. I assume that all cases in which scrutiny is taken up are done strictly in accordance with instructions. Of course, some assesses complain that their cases are being picked up arbitrarily or notices have been issued to them arbitrarily. I know of cases where people have gone to court. I also know that those cases have been dismissed, upholding the action of the Income Tax Department. So, unless the hon. Members specifies any particular case, it will be difficult for me to respond whether that case was a case of arbitrary action by the Income Tax Department, or, whether the case was of justified action upheld by court of law.

DR. K. MALAISAMY: He knows the case and I know the case, Sir.

SHRI P. CHIDAMBARAM: You mention the name of the case and I will give you the answer.

SHRI SHANTARAM LAXMAN NAIK: Sir, as you are aware, in Goa, there is a Uniform Civil Code prevailing where the family matters are treated differently. Husband and wife have got equal share. Husband cannot depart with the share without permission of his wife. It is known. Now, considering this Uniform Civil Code and Income Tax law, there are several aberrations which occur. Some of the demands have been met by the Government. There are yet many demands which are pending with the Finance Ministry, especially, the issue of teachers. So, will you please appoint an expert committee, taking some eminent jurists from Goa, who know Uniform Civil Code, in that committee and decide all pending issues which relate to the Goa Uniform Civil Code and Income Tax? It is my grievance, Sir.

SHRI P. CHIDAMBARAM: With great respect, Sir, I would like to inform the hon. Member that it does not arise in this case. The Hon. Member has written to me about the Civil Code that applied in Goa when it was under colonial rule. Under the Civil Code, there are certain rules. Now, we have to reconcile them with our Income Tax Act. Some people have said that there is an advantage in clubbing the husband and wife's income, some people say, "No, you should not club the husband and wife's income". These are under examination. However, this does not arise from the present question.

This is a peculiar situation. He has written to me. I have written back to him and we are looking into the matter.

श्री सभापति: माननीय सदस्यों ने प्रश्न पूछने के लिए अपने हाथ खड़े किए हैं, लेकिन बिजनेस एडवाइजरी कमेटी में यह निर्णय हुआ है कि एक प्रश्न में दो से ज्यादा सप्लीमैंटरी अलाऊ नहीं करना है।

Service tax on medical profession

*182. SHRI PENUMALLI MADHU:††
SHRIMATI BRINDA KARAT:

Will the Minister of FINANCE be pleased to state:

(a) whether there are any concessions in taxation for some medical institutes;

(b) whether Government consider to exclude Service Tax on medical profession; and

(c) in how many States are medical profession is taxed and what is the percentage of tax on medical profession?

THE FINANCE MINISTER (SHRI P. CHIDAMBARAM): (a) to (c) A Statement is laid on the Table of the House.

Statement

(a) Yes, Sir. A number of concessions are available to medical institutes under the Income-tax Act, 1961.

(b) At present, service tax is not leviable on services provided by medical personnel in their professional capacity.

(c) The States have powers to levy 'taxes on professions, trades, callings and employments' by virtue of Entry 60 of the State List of Seventh Schedule to the Constitution of India. Article 276(2) of the Constitution provides that the total amount payable in respect of any one person to the State or to any local body in the State shall not exceed Rs. 2,500 per annum in respect of such tax. The incidence of this tax may fall on any profession, trade or employment (public sector or private) which includes

††The question was actually asked on the floor of the House by Shri Penumalli Madhu.